

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9692 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

PATEL ALPESHKUMAR JETHABHAI

Versus

STATE OF GUJARAT

Appearance:

MR KB PUJARA for Petitioner
MR UR BHATT, AGP for Respondent No. 1, 2, 3
MS MONALI BHATT for MR AD OZA for Resp. No. 4, 5
NOTICE SERVED BY DS for Respondent No. 6, 7, 8, 9,10

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/02/2001

ORAL JUDGEMENT

Rule. In the facts and in the circumstances of
the case, the matter is finally heard today.

2. This petition under Article 226 of the

Constitution is filed for a direction to respondent Nos. 1 to 3 to accept the birth date of the petitioner as reflected in the birth certificate issued by the Gram Panchayat under the Registration of Births and Deaths Act, 1969 and further to direct respondent Nos. 4 to 9 to correct the petitioner's birth date in their records as 30.5.1984 instead of 31.7.1984 as per the birth certificate at Annexure "A" to the petition.

3. According to the petitioner, he was born at village Anjana, Taluka Prantij, District Sabarkantha and his birth was duly registered. However, according to the petitioner, while admitting him in the school initially, the petitioner's father's brother by mistake and inadvertence stated his birth date as 31.7.1984 which was recorded in the General Register of the school and accordingly the school leaving certificate, SSCE certificate and other academic record of the petitioner contained the incorrect birth date as 31.7.1984.

4. Heard the learned counsel for the parties. It is not contended that there is anything to doubt the genuineness of the birth certificate issued by the gram panchayat (Annexure "A") showing the birth date of petitioner-Patel Alpeshkumar Jethabhai as 30.5.1984. In view of the settled legal position in the cases of Diptidevi Patel vs. State of Gujarat 25 GLT 150; Dakshaben J. Patel vs. Director of Education, 20 GLT 244 and in Special Civil Application NO. 8846 of 1992 decided on 15.7.1993 (Coram : Hon'ble Mr Justice R.K. Abichandani), entry in the Birth and Death Register is to be preferred to the entry in the school leaving certificate and the entry in the birth certificate is to be accepted as correct. Even as per the Government Resolution dated 11.8.1989, where there is discrepancy between the birth date stated in the school leaving certificate or SSCE certificate and in the birth register of the local authority, then the birth date stated in the certificate on the basis of the Birth Register is to be treated as correct and final for all purposes including the Government service.

5. In view of the fact that more credence has to be given to the entry made in the Register of Births maintained by the local authority rather than to the entry made in the school leaving certificate or the SSCE certificate, respondent Nos. 1 to 3 are directed to act on the basis that petitioner Patel Alpeshkumar Jethabhai was born on 30.5.1984 as mentioned in the entry in the Register of Births maintained by the Gora-Anjana Gram Panchayat (Annexure "A" to the petition) and respondent

Nos. 4 to 9 are directed to correct their record showing the birth date of petitioner Patel Alpeshkumar Jethabhai as 30.5.1984 instead of 31.7.1984 and to issue fresh certificate to the petitioner accordingly.

6. Rule is made absolute to the aforesaid extent with costs only in favour of Gujarat Secondary Education Board who have appeared through their counsel Ms Monali Bhatt for Mr AD Oza. The costs to be paid to Gujarat Secondary Education Board are quantified at Rs.1,000/(Rupees One thousand only) which shall be paid within one month from today.

Direct Service is permitted.

(M.S. Shah, J.)

sundar/-